

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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GREGORY LEE, #184 070

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Plaintiff,

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v.

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2:07-CV-683-ID  
(WO)

NURSE JONES, *et al.*,

\*

Defendants.

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**RECOMMENDATION OF THE MAGISTRATE JUDGE**

The above-captioned complaint was filed in this court on July 27, 2007. After reviewing the complaint, the court deemed it necessary to direct Plaintiff to advise the court as to whether he did, in fact, intend to file this action with this court. Specifically, a review of the complaint reflected that Plaintiff may have meant to file this action in the Circuit Court for Elmore County, Alabama, pursuant to the Alabama Medical Liability Act. (*See* Doc. No. 1 at 1.)

Based on the foregoing, the court entered an order on July 31, 2007 granting Plaintiff an opportunity to inform the court as to whether he did, in fact, intend to file the above-captioned complaint in this court or, rather, whether he intended it for filing in state court. Plaintiff was cautioned that his failure to comply with the July 31 order would result in a Recommendation that his complaint be dismissed. (*Id.*)

The requisite time has passed and Plaintiff has not complied with the order of the court. Consequently, the court concludes that dismissal of this case is appropriate for

Plaintiff's failures to prosecute this action and comply with the orders of the court.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to prosecute this action and comply with the orders of this court.

It is further

ORDERED that the parties are DIRECTED to file any objections to the said Recommendation on or before August 29, 2007. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5<sup>th</sup> Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11<sup>th</sup> Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11<sup>th</sup> Cir. 1981) (*en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done, this 17<sup>th</sup> day of August 2007.

/s/ Wallace Capel , Jr.  
WALLACE CAPEL, JR.  
UNITED STATES MAGISTRATE JUDGE